

# HOUSE . . . . . No. 2699

By Ms. Blumer of Framingham (by request), petition of Scott Kwiker relative to protecting health care and emergency professionals from exposure to infectious diseases. Public Health.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

### AN ACT TO PROTECT HEALTH CARE AND EMERGENCY PROFESSIONALS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 111C of chapter 111 of the General Laws  
2 is hereby amended by striking out in the first paragraph and  
3 inserting in place thereof the following paragraph:—

4 Any person, including without limitation, a health care provider  
5 or employee of a health facility, a police officer, fire fighter, emer-  
6 gency medical technician, corrections officer, ambulance operator  
7 or attendant (collectively “exposed person”) who, while acting in  
8 his professional capacity, attends, assists, treats or transports a  
9 person or deceased person to a health care facility licensed under  
10 section fifty-one of chapter one hundred and eleven, and who sus-  
11 tains an unprotected exposure capable of transmitting an infec-  
12 tious disease dangerous to the public health, shall immediately,  
13 upon arrival at such facility or upon sustaining such an exposure,  
14 provide to the admitting agent or other appropriate employee of  
15 the said facility a standardized incident report. The department  
16 shall prepare and distribute said standardized incident report,  
17 which shall include, but need not be limited to the names of per-  
18 sons who believe they have had such unprotected exposure, and  
19 the manner in which such exposure occurred.

1 SECTION 2. Section 111C of chapter 111 of the General Laws  
2 is hereby amended by striking out in the third paragraph and  
3 inserting in place thereof the following paragraph:—

4     Unprotected exposure capable of transmitting an infectious dis-  
5 ease dangerous to the public health” shall be defined in regula-  
6 tions promulgated by the department and shall include, but not be  
7 limited to, instances of direct mouth-to-mouth resuscitation, or the  
8 co-mingling of the blood of the patient and the person who has  
9 transported the patient to or provided health care related services  
10 at the health care facility.

1     SECTION 3. Section 111C of chapter 111 of the General Laws  
2 is hereby amended by striking out in the first sentence in fourth  
3 paragraph and inserting in place thereof the following sentence:—

4     Any health care facility licensed under section fifty-one of  
5 chapter one hundred and eleven which, after receiving a trans-  
6 ported individual or deceased person or treating such a person,  
7 diagnoses the individual or deceased person as having an infec-  
8 tious disease dangerous to the public health as defined pursuant to  
9 the provisions of this section, shall notify orally within forty-eight  
10 hours after making such a diagnosis, and in writing within  
11 seventy-two hours of such diagnosis, any individual listed on the  
12 trip report who has sustained an unprotected exposure which, in  
13 the opinion of the health care facility is capable of transmitting  
14 such disease.

1     SECTION 4. Section 111C of chapter 111 of the General Laws  
2 is hereby amended by striking out in the first sentence in fifth  
3 paragraph and inserting in place thereof the following sentence:—

4     Notwithstanding the provisions of any general law or special  
5 law to the contrary, no hospital, or agent, employee, administrator,  
6 doctor, official or other representative of said reporting institution  
7 shall be held jointly or severally liable either as an institution, or  
8 personally, for reporting, sampling or testing pursuant to the  
9 requirements of this section, if such report, sample or test was  
10 made in good faith.

1     SECTION 5. Section 111C of chapter 111 of the General Laws  
2 is hereby amended by adding after the 5th paragraph the following  
3 two paragraphs:—

4     Notwithstanding the provisions of any general law or special  
5 law to the contrary, if any exposed person, while acting in his pro-

6 fessional capacity, attends, assists, treats or transports a person or  
7 deceased person (“source patient”), and sustains an unprotected  
8 exposure capable of transmitting an infectious disease dangerous  
9 to the public health, then blood, tissue, or other bodily fluids or  
10 samples as determined to be reasonably necessary by a physician  
11 in his medical judgment for use by that health care provider or  
12 health facility to perform tests for bloodborne infectious diseases  
13 dangerous to the public health, shall immediately be submitted by  
14 or taken from the source patient and such tests shall be conducted  
15 by the health care provider or health facility . For the purposes of  
16 this section, bloodborne infectious diseases dangerous to the  
17 public health shall include HIV/AIDS, Hepatitis B, Hepatitis C,  
18 and any other infectious diseases dangerous to the public health  
19 that the department has classified as bloodborne. A physician in  
20 his medical judgment may also require and perform tests for air-  
21 borne, uncommon, or other infectious diseases dangerous to the  
22 public health.

23 Notwithstanding the provisions of any general law or special  
24 law to the contrary, written informed consent is not required for a  
25 health care provider or health facility to perform any such test  
26 when an exposed person is involved in an accidental direct skin or  
27 mucous membrane contact with the blood or bodily fluids of a  
28 source patient which is of a nature that may transmit an infectious  
29 disease dangerous to the public health, as determined by a physi-  
30 cian in his medical judgment. At the time accidental exposure is  
31 reported, and again once such test results are known, the source  
32 patient and exposed person shall be provided appropriate coun-  
33 seling and medical care consistent with this Act.